



POLICE DEPARTMENT

CITY OF
**PALO
ALTO** 275 Forest Avenue
Palo Alto, CA 94301
650.329.2406

February 11, 2019

VIA CPA Web Portal

Ms. Lisa Fernandez
lisa.fernandez@foxtv.com
Fox/KTVU Channel 2
2 Jack London Square
Oakland, CA 94607

Re: Public Records Act Request Dated December 19, 2018 and Amended January 7, 2019
Reference – W001572-011019

Dear Ms. Fernandez,

This letter is to follow up to our last response dated January 25, 2019 regarding your CPRA request for certain records maintained by the City of Palo Alto relating to SB 1421 Cases pursuant to the California Public Records Act, Cal. Gov't Code §§ 6250 et seq. Our updated response is located below in Response to Requests 1 and 2.

Records Request 1:

"The names and reports of officers involved in police or deputy misconduct, soon to be made public as a result of SB 1421. We are seeking records that date back to Jan. 1, 2017 in our initial request. We would like a prompt return of these records, as required by law. Please include video related to the incident."

Response to Request 1:

Pursuant to Cal. Penal Code § 832.7, the Palo Alto Police Department does not have any responsive records of sustained findings of sexual assault or dishonesty for the time period requested. With regards to Use of Force the Department is withholding responsive records prior to January 1, 2019 as exempt under Govt. Code 6255 consistent with the recent position of the State Attorney General's Office. There is pending litigation in the courts to resolve the issue of retroactive application of SB 1421. The Attorney General's statement, which the City adopts, is quoted below:-

"Historically, peace officers have had a significant privacy right in their personnel records. Several cases currently pending in the California superior courts raise the issue whether SB 1421 requires the disclosure of records relating to conduct occurring before January 1, 2019, which is the effective date of SB 1421. In two of those cases, the courts have directed local law enforcement agencies not to disclose documents until further proceedings on the issue. (Los Angeles Police Protective League v. City of Los Angeles (Super. Ct. Los Angeles County, 2018, No. 18-STCP-03495; Richmond Police Officers' Association v. City of Richmond (Super. Ct. Contra Costa County, 2019, No. 19-0169). Therefore, until the legal question of retroactive application of the statute is resolved by the courts, the public interest in accessing these records is clearly outweighed by the public's interest in protecting privacy rights. (Gov. Code, § 6255.) We will not disclose any records that pre-date January 1, 2019 at this time. "

Records Request 2:

"As this process can be time-consuming, the second part of our request is asking for records going back to Jan. 1, 2014. We request that "Part 2" of our request be made public considering time restraints. Please include related video."

Response to Request 2:

Pursuant to Cal. Penal Code § 832.7, the Palo Alto Police Department does not have any responsive records of sustained findings of sexual assault or dishonesty for the time period requested. With regards to Use of Force, the Department is withholding responsive records prior to January 1, 2019 as exempt under Govt. Code 6255 consistent with the recent position from the State Attorney General's Office. There is pending litigation in the courts to resolve the issue of retroactive application of SB 1421. See Response to Request 1, above.

Records Request 3:

"Provide how many complaints from the public about police misconduct regarding the items covered in SB 1421 have you gotten in this time period. (Back to Jan. 1, 2017 first, and then back to Jan. 1, 2014) Provide how many department-initiated internal affairs investigations regarding items covered in SB 1421 have you conducted in this time period?"

Response to Request 3:

The Department does not have responsive records to your request of sustained misconduct documents covered in SB 1421 stemming from citizen complaints, or internally-initiated investigations.

All formal citizen complaint investigations and internal affairs investigations are provided to the Independent Police Auditor. The IPA's reports are available on-line. Here is the link:
<https://www.cityofpaloalto.org/gov/depts/pol/auditor.asp>

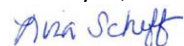
Records Request 4:

"Provide how many claims and lawsuits have you received and settled regarding the items covered in SB 1421 in the same time period?"

Request Response to 4:

Information about claims and lawsuits will be provided to you by the City of Palo Alto City Attorney's Office as they become available (if any) through this same web system.

Thank you,



Lisa Scheff
Public Safety Program Manager/Records
650.329.2553
Lisa.scheff@cityofpaloalto.org